



City of Rockville

M E M O R A N D U M

November 12, 2003

TO: City of Rockville Planning Commission

FROM: Deane Mellander, Planner III

VIA: Bob Spalding, Chief of Planning

SUBJECT: Proposed Zoning Text Amendment TXT2003-00202: To Require the Provision of Adequate Public Facilities in Connection with Development or Redevelopment within the City, and Establish Recommended Adequate Public Facilities Standards.

BACKGROUND

As part of its efforts to improve mobility and livability within the City, the Mayor and Council directed the staff to develop an Adequate Public Facilities Ordinance (APFO) to guide development and redevelopment within the City. The City contracted with Duncan Associates to review the City's current development review program and provide guidance and recommendations on how various components of the public facilities programs may be integrated into a comprehensive APFO.

The consultant presented an initial report to the Mayor and Council in April, 2003. Several worksessions were held with the Mayor and Council to further refine the standards and requirements. A zoning text amendment has also been drafted to provide the necessary implementation language to administer the proposed APFO standards. The public hearing draft APF Standards document establishes standards for traffic and transportation, schools, fire protection, and water and sewer supply.

There are three elements to the APFO: 1) a text amendment to the zoning code that requires the provision of adequate public facilities prior to development approval; 2) a set of standards for determining the adequacy of public facilities; and 3) a revised transportation review process, the Comprehensive Transportation Review (CTR) that will replace the current Standard Traffic Methodology.

There are three stages involved in the APFO review of development. The initial stage requires APF review at the initial stage of development for Comprehensive Planned Developments (CPDs), Planned Residential Unit developments (PRUs), Preliminary Development Plans (PDPs), and some special exception applications. These project proposals will be tested for adequacy of transportation, schools, fire protection, and water and sewer supply. The second stage review is for detailed applications, including Use Permits, Detailed Applications, and preliminary subdivision applications. These applications will be tested for specific transportation levels of service, and the initial requirements if not previously approved. The final stage tests for adequate water and sewer supply prior to the issuance of a building permit.

The APFO will not apply to projects that have already received approval if they are completed before their permits expire. For projects such as CPDs, PDPs, RTHs, and PRUs that do not have an expiration date, the standards require APF testing 15 years from the effective date of the APFO. If all public facilities required as a condition of approval have been completed, the project will have an additional 5 years to complete the development. The Mayor and Council may approve two additional 5-year extensions for good cause shown.

Staff recommends that all applications that have not been acted upon at the effective date of the ordinance be subject to the APFO requirements. There should likely be a short period between adoption and effective date, perhaps on the order of 30 days, to allow projects that may be well along in the review process to be finalized. However, a final determination on the effective date should probably wait until the public hearing record closes, to assess the testimony that might be received.

ANALYSIS

Zoning Text Amendment

The proposed zoning text amendment will add enabling language to the code that requires the finding that public facilities will not be overburdened by approval of a development project. This will include Use Permits, the regulations on retail store size limitations in the C-2 and RPC Zones, special exceptions, Special Development Procedures (including Variable Lot Size development, Cluster development, PRUs, RTH development, CPDs, and the I-3 Optional Method), the Town Center Area, the Rockville Pike Corridor, and also preliminary plans of subdivision.

The text amendment also proposes to create a new Article XVI that implements the process and procedures for an APF analysis. The Mayor and Council will establish by resolution Adequate Public Facilities Standards, which can be periodically reviewed and modified as deemed necessary by the Mayor and Council. The APFO standards will apply to any new development or redevelopment, except those determined to be *de minimis* by the APFO standards. In addition, the following are also exempt from the APFO: 1) An application to implement an approval that

was approved after the effective date of the ordinance and retains a valid APF certification (except for a final water and sewer test at building permit); and 2) an application to implement a valid special exception, use permit or preliminary plan of subdivision that was approved prior to the effective date (except for a final water and sewer test at building permit).

APF approvals are effective for the length of time required to implement the currently-required actions for use permits, special exceptions, and preliminary subdivisions. Special Development Procedures (SDPs) will have one year from the date of approval of the exploratory application, or approval of a detailed application. Following the initial detailed application approval, the project has 10 years to implement all required detailed applications. The approving body may approve no more than two time extensions of one year each, but cannot approve extensions beyond the underlying validity period. In the case of special exceptions, the Board of Appeals may grant no more than two extensions not exceeding 6 months.

If the APFO approval expires, the original approving body may recertify the approval, but the only following and updated analysis based on the standards in effect at the time of recertification. If the reanalysis indicates that facilities will be overburdened, mitigation will be required or the project will be denied.

There are several SDPs that have obtained approval and not yet been fully implemented. Many of these projects were approved with no specific staging schedule and hence no termination date. The text amendment will establish a 15-year period from the effective date for such projects to be completed before and APFO evaluation is required. Any project that fully implements the public facilities and improvements required as a condition of approval within the 15-year period will receive an automatic five-year extension to complete the project. The Mayor and Council may approve two additional 5-year extensions for good cause shown. If a project fails to complete its build-out within the specified time, the APFO test will be applied to the unbuilt portion of the project, with credit given for facilities already provided.

Adequate Public Facilities Standards

The Adequate Public Facilities Standards is a policy document to be approved by the Mayor and Council to establish procedures and standards necessary to ensure that adequate public facilities and services are provided concurrent with new development and redevelopment. The Mayor and Council may periodically update this document as deemed necessary to implement the City's policies. The document establishes Levels of Service (LOS) for those facilities subject to the APF test. These are traffic and transportation, public schools, fire protection, and water and sewer supply.

The Standards document also establishes a *de minimis* standard, below which projects will not be subject to the APFO. The draft document proposes the following as *de minimis*: construction of

one single-family dwelling; a project that generates less than 50 peak-hour trips; a residential project that generates less than 12 school-age children.

As part of the APFO, the traffic and transportation test is based on proximity to a major fixed-guideway transit station, or Transit-Oriented Area (TOA). The document proposes that areas within 7/10 mile waling distance from a transit station, along with their major access routes, be designated as TOAs. Within a TOA, traffic congestion levels are allowed to be higher, since there are alternative modes of transportation readily available within the TOA. Areas outside of TOAs are required to maintain a lower level of congestion.

The APF Standards also require a test for non-auto transportation methods—bicycle, pedestrian, and transit service. These items have not been a part of the Standard Traffic Methodology (STM).

In order to better implement the APFO, the Traffic and Transportation Division is proposing a complete update of the STM. This update is the Comprehensive Transportation Review. It will be closely tied to the APF standards, and act as the implementation mechanism for transportation issues. The CTR will be reviewed/approved by the Planning Commission and Mayor and Council, with an expected completion date of March, 2004.

For public schools, the Standards document proposes that school capacity must be available at the time of project approval, or be programmed for completion in the Capital Improvements Program within 3 years. In addition, the schools will be measured at 100 percent of the rated capacity. The data will be based on the most recent school student census and forecasts provided by Montgomery County Public Schools.

For fire protection, the Level of Service proposed requires that higher-risk uses such as schools, hospitals, nursing homes, commercial buildings over 3 stories without sprinklers and places of assembly with seating for more than 500 persons be within the full response time of 10 minutes from 3 fire stations. The service areas will be based on data supplied by the Montgomery County Fire and Rescue Service.

Water and sewer supply is based on the available supply/capacity of the system. The LOS is based on available capacity less fire-flow requirements. A development must have a minimum of 1,000 gallons per minute of fire flow available on-site or within 500 feet to be approved. A final water and sewer service check-off is required at the time of building permit issuance for all development projects.

Recommended Modifications to the Draft Standards Document

Based on further review by staff since publication of the Public Hearing Draft Standards document, the staff recommends the following modifications to the language:

Page 1: The paragraph below Table 1 should better reflect the language in the proposed text amendment. Staff recommends that the second sentence be amended to read as follows:

Any development applications filed prior to the effective date will be reviewed based on the standards and requirements in effect at the time of approval.

Add the following language immediately after the above:

An application to implement an approval that was approved after the effective date of the APFO and retains a valid adequate public facilities certification is not subject to further adequate public facilities approvals except for water and sewer service, which are confirmed prior to the issuance of a building permit. An application to implement a valid special exception, use permit or preliminary plan of subdivision that was approved prior to the effective date of the APFO is not subject to the adequate public facilities standards except for water and sewer service, which is confirmed prior to the issuance of a building permit.

Page 3: Delete the second line of Table II and revise to read as follows:

Table II: De Minimis Provisions

	Transportation	Schools	Fire	Water	Sewer
1 Single-family detached residence	No	N/A	No	Yes	Yes
<50 Peak Hour Auto Trips	No ¹	N/A	Yes	Yes	Yes
50 or More Peak Hour Auto Trips	Yes	N/A	Yes	Yes	Yes
<12 School Students	N/A	No	N/A	N/A	N/A
> 12 School Students	N/A	Yes	N/A	N/A	N/A

¹ Auto-related impacts are still considered but traffic impact study is not required.

Page 5: Insert a new paragraph after the end of the paragraph that carries over from Page 4, to read as follows:

In general, LOS is calculated for the a.m. or p.m. peak hour for traffic generation from the proposed development. Certain types of uses, for example in the Rockville Pike Corridor or

Shady Grove Road corridor, may generate high volumes of trips during the weekday or weekend mid-day hours. If those alternate peak hours produce the greatest traffic impact, they will be used to evaluate compliance with the APFO standard.

Page 6: Table IV should be modified to move “Secondary Industrial” from the first line to the second line.

Page 9: The first paragraph should be revised to read as follows:

The Montgomery County Public Schools system has established a method of determining school capacity that it applies and reports as part of its annual Capital Budget Program (MCPS 2002, App.H). In general, the school system uses a planning capacity of 20 students per section in pre-kindergarten, 25 students per section for K – 5 students, and 22.5 students per section for secondary school students. Special education sections are rated at between 6 and 15 students depending on the make-up of the particular class. Half-day kindergarten is rated at 44 students and 22 for full-day kindergarten). (See MCPS 2002, App. H, p. h-1) which provides an objective basis for determining building capacity.

The third paragraph should be modified by changing phrase in the second line from “actual physical” to “program” capacity.

The fourth paragraph should be modified in the first line to read as follows:

School demand is based on actual student census in the most recent complete academic year, projected forward to the three year forecast, and adjusted for the following...

Under (i) Levels of Service, the first bullet should be modified to change the word “rated” in the third line to “MCPS program capacity”.

The second bullet should be modified to read as follows: Within the City, capacity is based on a cluster of schools, including elementary, middle and high schools, using the clusters already established...

Page 10: The third bullet is redundant to the fourth paragraph on page 9 and should be deleted.

The fourth bullet should be modified by adding a new sentence at the end, to read as follows: It should be noted that the 3-year projections do not include portables in the capacity ratings.

RECOMMENDATION

The staff finds that the proposed text amendment to implement an adequate public facilities test is consistent with City policies, and recommends approval as presented. The staff also

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recommends approval of the proposed Adequate Public Facilities Standards, dated October 24, 2003, with the modifications recommended above. In conjunction with the proposed Comprehensive Transportation Review, the APFO standards will help ensure that development and redevelopment in the City will not overburden available public facilities.

RJS/dem

Attachments: A. Adequate Public Facilities Standards – Public Hearing Draft October 24, 2003
B. Proposed text amendment to implement adequate public facilities findings